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12 IMPAX LABORATORIES, INC.

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION  
16

17 IMPAX LABORATORIES, INC.,

18 Plaintiff,

19 v.

20 MEDICIS PHARMACEUTICAL CORP.,

21 Defendant.

CASE NO.: C08-0253-MMC

**DECLARATION OF TED SMOLENSKI  
IN SUPPORT OF IMPAX'S  
OPPOSITION TO MEDICIS'S  
MOTION TO DISMISS**

Date: April 11, 2008

Time: 9:00 a.m.

Before: Hon. Maxine M. Chesney

1 I, Ted Smolenski, declare as follows:

2 1. I am currently employed at IMPAX Laboratories, Inc. as Director, Market  
3 Planning. As part of my job, I attend conferences about the pharmaceutical and healthcare  
4 industries. I have personal knowledge of the facts stated herein.

5 2. On January 8, 2008, I attended the 26<sup>th</sup> Annual JPMorgan Healthcare Conference  
6 held in San Francisco, California. Among other presentations at the JPMorgan Healthcare  
7 Conference, I attended a presentation by Jonah Shacknai, Chairman and CEO of Medicis  
8 Pharmaceutical Corporation.

9 3. After his presentation, Mr. Shacknai answered questions about, among other  
10 things, one of Medicis' products, Solodyn, at a breakout session. During the breakout session,  
11 Mr. Shacknai stated that Medicis would protect Solodyn from generic competition and stated  
12 specifically that Medicis would use "extreme aggression" to do so.

13 4. I did not ask any questions of Mr. Shacknai at the presentation or the breakout  
14 session, nor did I ask anyone else to ask questions on my behalf. I attended the presentation and  
15 breakout session merely as an observer.

16 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
17 March 16, 2008, at Hayward, California.

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20 Ted Smolenski  
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